

Decision 02-06-038 June 27, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking on the Commission's Own Motion to Solicit Comments and Proposals on Distributed Generation and Competition in Electric Distribution Service.

Rulemaking 98-12-015
(Filed December 17, 1998)

OPINION AWARDING COMPENSATION

This decision modifies the award adopted in Decision 00-04-011, which awarded Greenlining Institute and Latino Issues Forum \$15,030.45 in compensation for their contribution to D.99-10-065. Consistent with D.02-05-011, we modify the hourly rates adopted for attorneys Susan Brown and Robert Gnaizda. This change results in a total award of compensation of \$15,302.95. Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (Edison) are directed to pay the incremental difference (\$272.50) to Greenlining Institute and Latino Issues Forum, with interest, beginning April 25, 2000.

1. Background

In D.00-04-011 we awarded Greenlining Institute and Latino Issues Forum \$15,030.45 in compensation for their substantial contribution to D.99-10-065. The work of the parties in this proceeding was performed in 1999. To set 1999 rates, we relied on a 1998 rate adopted in D.98-12-048 for attorneys Susan Brown and Robert Gnaizda. Brown's rate was set at \$250/hour and Gnaizda's rate was set

at \$270/hour. Greenlining Institute and Latino Issues Forum had requested rates be set at \$260/hour for Brown and \$275/hour for Gnaizda.

At the same Commission meeting where we adopted D.00-04-011, we also adopted D.00-04-003, which addressed another claim for compensation by Greenlining Institute and Latino Issues Forum. Greenlining Institute and Latino Issues Forum filed a timely application for rehearing of that order, which was resolved in D.02-05-011. Greenlining Institute and Latino Issues Forum also filed a petition to modify D.00-04-003, which was resolved in the order disposing of the application for rehearing. Although D.02-05-011 denied the application for rehearing, the Commission took the opportunity presented by the request to reevaluate the rates awarded to several attorneys and experts for Greenlining Institute and Latino Issues Forum, and to modify the 1998 rates for Brown, Gnaizda, and attorney Itzel Berrio.

In D.02-05-011, we set new 1998 rates for Brown and Gnaizda at \$260/hour and \$290/hour, respectively. This decision responds to the Commission's directive that we revisit the rates adopted in orders that followed D.00-04-003, in light of its modification.

2. Hourly Rates

In D.02-05-011 we set a 1998 hourly rate for Gnaizda at \$290/hour. In this claim, Greenlining Institute and Latino Issues Forum requested an hourly rate of \$275/hour for work performed in 1999. We will utilize the 1998 rate adopted in D.02-05-011 in awarding compensation for this proceeding, a higher rate than that requested by Gnaizda. This rate does not reflect any change from 1998 rates to account for changes in market rates for legal services between 1998 and 1999. Because it reflects his 1998 rate, we do not consider the modified 1999 rate we

adopt today for Gnaizda to limit the Commission's ability to set a different rate for 1999 in a different proceeding.

Consistent with the rate adopted in D.02-05-011 and requested by Brown, we adopt \$260/hour as the hourly rate for Brown's work in this proceeding in 1999. Time spent by Brown on the compensation request will be awarded at half her hourly rate. Like the rate adopted for Gnaizda, this rate does not reflect any change from 1998 rates to account for changes in market rates for legal services between 1998 and 1999. Because it reflects her 1998 rate, we do not consider the modified 1999 rate we adopt today for Brown to limit the Commission's ability to set a different rate for 1999 in a different proceeding.

We make no changes to rates adopted for other witnesses.

3. Award

Utilizing the revised hourly rates for Brown and Gnaizda, the total award to Greenlining Institute and Latino Issues Forum is \$15,302.95 as calculated below.

Witness	Hours	Rate	Amount
Brown (Professional Time)	13.88	\$ 260.00	\$ 3,608.80
Brown (Compensation/Travel)	0.5	\$ 130.00	\$ 65.00
Gnaizda (Professional Time)	6.56	\$ 290.00	\$ 1,902.40
Figueroa (Professional Time)	58.5	\$ 75.00	\$ 4,387.50
Figueroa (Travel)	0.5	\$ 37.50	\$ 18.75
Hernandez (Professional Time)	27.19	\$ 75.00	\$ 2,039.25
Hernandez (Travel)	1.5	\$ 37.50	\$ 56.25
Hernandez (Compensation)	21	\$ 75.00	\$ 1,575.00
Subtotal			\$ 13,652.95
Other Costs			\$ 1,650.00
Total			\$ 15,302.95

Of this amount, \$15,030.45 has already been paid, resulting in an increased award of \$272.50. Consistent with how we allocated responsibility for the award adopted in D.00-04-011, we assess responsibility for payment of the \$272.50 increment in accordance with PG&E's, SDG&E's, and Edison's respective 1998 California jurisdictional revenues.

Consistent with previous Commission decisions, we will order that interest be paid on the award amount (calculated at the three-month commercial paper rate), commencing April 25, 2000 (the 75th day after Greenlining Institute and Latino Issues Forum submitted their complete compensation request), and continuing until the utilities make full payment, respectively, of the award.

As in all intervenor compensation decisions, we put Greenlining Institute and Latino Issues Forum on notice that Commission staff may audit their records related to this award. Thus, they must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Their records should identify specific issues for which compensation is requested, the actual time spent by each employee, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation may be claimed.

Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Public Utilities Code Section 311(g)(1) and Rule 77.1 of the Rules of Practice and Procedure. No comments were filed.

Findings of Fact

1. D.02-05-011 adopted a 1998 hourly rate for Susan Brown of \$260/hour.
2. D.02-05-011 adopted a 1998 hourly rate for Robert Gnaizda of \$290/hour.

3. Greenlining Institute and Latino Issues Forum requested 1999 hourly rates for attorneys Gnaizda and Brown of \$275/hour and \$260/hour respectively.

Conclusions of Law

1. The 1998 rates adopted in D.02-05-011 should be utilized for 1999 rates for attorneys Gnaizda and Brown.

2. Because the adopted 1999 rate does not reflect any change from 1998 rates to account for changes in market rates for legal services, the modified 1999 rates adopted today should not limit the Commission's ability to set a different rate for 1999 in a different proceeding for attorneys Brown or Gnaizda.

3. Greenlining Institute and Latino Issues Forum jointly should be awarded an additional \$272.50 for their contribution to D. 99-10-065.

4. This order should be effective today so that Greenlining Institute and Latino Issues Forum may be compensated without unnecessary delay.

O R D E R

IT IS ORDERED that:

1. Greenlining Institute and Latino Issues Forum are jointly awarded an additional \$272.50 in compensation for their substantial contribution to Decision 99-10-065.

2. Pacific Gas and Electric Company (PG&E), Southern California Edison Company (Edison), and San Diego Gas & Electric Company (SDG&E) shall pay Greenlining Institute and Latino Issues Forum a total of \$272.50 in proportion to their respective 1998 jurisdictional revenues within 30 days of the effective date of this order. PG&E, Edison, and SDG&E shall also pay interest on the award at the rate earned on prime, three-month commercial paper, as reported in Federal

R.98-12-015 ALJ/MLC/eap

Reserve Statistical Release G.13, with interest, beginning April 25, 2000, and continuing until full payment is made.

3. This proceeding is closed.
4. This order is effective today.

Dated June 27, 2002, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
MICHAEL R. PEEVEY
Commissioners